

**ANNUAL ENGINEER'S REPORT  
LANDSCAPING AND LIGHTING  
MAINTENANCE ASSESSMENT  
DISTRICT NO. 95-1**

**FISCAL YEAR 2005-2006**

CITY OF MILPITAS  
SANTA CLARA COUNTY  
CALIFORNIA

**ANNUAL ENGINEER'S REPORT  
FOR  
LANDSCAPING AND LIGHTING  
MAINTENANCE ASSESSMENT  
DISTRICT NO. 95-1**

FISCAL YEAR 2005-2006

Jose S. Esteves, Mayor

**MEMBERS OF THE CITY COUNCIL**

Jose S. Esteves, Mayor  
Armando Gomez, Vice Mayor  
Robert Livengood, Council Member  
Althea Polanski, Council Member  
Debbie Giordano, Council Member

Charles Lawson, City Manager  
Steven T. Mattas, City Attorney  
Mary Lavelle, City Clerk

Prepared by:  
Greg Armendariz, City Engineer  
Mehdi Khaila, Land Development Engineer

## **ANNUAL ENGINEER'S REPORT**

### **LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 95-1**

Greg Armendariz, Engineer of Work for Landscaping and Lighting Maintenance Assessment District No. 95-1 (the "Maintenance Assessment District"), City of Milpitas, Santa Clara County, California, makes this report, as directed by the City Council, pursuant to Section 22585 of the Streets and Highways Code.

The improvements which are the subject of this report are briefly described on the attached Exhibit A.

This report consists of seven parts, as follows:

PART A- Plans and specifications for the improvements to be maintained and operated are filed with the City Clerk. Although separately bound, the plans and specifications are a part of this report and are included in it by reference.

PART B- An estimate of the cost of the improvement to be maintained or operated.

PART C- An assessment of the estimated cost of the improvement to be maintained or operated on each benefited parcel of land within the assessment district.

PART D - A statement of the method by which the undersigned has determined the amount proposed to be assessed against each parcel.

PART E- A list of the names and addresses of the owners of the real property within this assessment district, as shown on the last equalized assessment roll for taxes, or as known to the Clerk.

PART F - A diagram showing all of the parcels of real property within this assessment district. The diagram is keyed to the Assessment Roll by assessment number.

PART G - A vicinity map showing the landscape areas.

Respectfully submitted,

Greg Armendariz, Engineer of Work  
RCE No. 40283 Exp. 12/31/06

## **EXHIBIT A**

### **DESCRIPTION OF WORK LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 95-1**

The Maintenance Assessment District is generally described as a district bounded on the east by Interstate 880, on the west by Coyote Creek, on the south by the State Route 237, and on the north by Dixon Landing Road as shown on the attached diagram.

The improvements within the Maintenance Assessment District consist of the maintenance and installation of any or all public landscaping and irrigation improvements adjacent to curbs of the following described streets, including jogging paths, planter walls, grass berms, pedestrian lighting and appurtenant irrigation systems; ornamental planting including lawns, shrubs, and trees; installation and maintenance of gateway columns and entry signs; such maintenance to include all necessary repairs, replacements, water, electric current, spraying, care, supervision, debris removal and all other items of work necessary and incidental for proper maintenance and operation thereof.

All such work shall be performed within the following areas:

#### **N. McCarthy Boulevard**

1) A strip of land including an earth berm approximately 50 feet in width from face of east curb line, from the southerly connection with Ranch Drive northerly 2,400 feet, more or less, to the northerly connection with Ranch Drive. A strip of land including a grass berm approximately 35 feet in width, west of the face of westerly curb, along the West Side of N. McCarthy Boulevard, from the southerly connection with Ranch Drive, northerly 2,400 feet, more or less. The initial phase includes a strip of land 6 feet wide on the west side of McCarthy Boulevard.

2) Commencing at a location approximately 2,400 feet north of State Route 237 thence proceeding north to the northern boundary of Lands of N. McCarthy, 7,800 feet more or less, a strip of land approximately 27 to 34 feet in width on each side along the east and west sides of McCarthy Boulevard between the northerly connection with Ranch Drive and Dixon Landing Road.

3) A median island from the southerly intersection with Ranch Drive northerly to the intersection with Dixon Landing Road.

4) Gateway Improvements, at the southerly intersection of N. McCarthy Boulevard and Ranch Drive and southerly of Bridge No 1 along N. McCarthy Boulevard, including curved stone planter walls, gateway columns with entry sign appurtenant mounding ornamental plantings including flat work, trees and ground cover, irrigation systems; all as shown on landscape plans.

5) Lighting costs in the Maintenance Assessment District are limited to the supplemental pedestrian lights installed between each of the 2 street lights on the section of curved walkway

located on the East Side of N. McCarthy Boulevard. The conventional lighting along McCarthy Boulevard is not included.

### **Milpitas Entry Sign**

City of Milpitas Entry Identification Sign along N. McCarthy Blvd., including walls, columns, lighting and other appurtenant.

### **Ranch Drive**

1) Commencing at a Northerly location where the right-of-way of Ranch Drive is contiguous with the right-of-way of Interstate 880, thence southerly, a strip of land approximately 10 feet in width measured from the east face of curb of Ranch Drive, from the northerly connection with Interstate 880 and Ranch Drive, southerly 630 feet, more or less, thence 405 feet south to the southerly end of Gateway location, varying in width from 10 feet to 132 feet, more or less.

2) Gateway Improvements, at the southerly connection of Ranch Drive and Interstate 880, including curved stone planter walls, gateway columns with entry sign appurtenant mounding ornamental plantings including flat work, trees and ground cover, irrigation systems; all as shown on landscape plans (Part A), except the Shopping Center's Monument Sign.

**LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT**  
**LMD 95-1**  
**2005-2006 FISCAL YEAR**  
**McCARTHY RANCH**

**PART B- ANNUAL BUDGET**

<b>LANDSCAPING, LIGHTING &amp; IRRIGATION</b>	<b>2004-2005 Budgeted</b>	<b>2005-2006 Proposed</b>
A. Personnel Costs	\$ 10,926	\$ 14,500.00
B. Contractual Services	\$ 200,000	\$ 164,822.94
C. Capitol Equipment	\$ 10,000	\$ 43,000.00
D. Supplies	\$ 1,300	\$ 5,200.00
E. Water Costs	\$ 25,000	\$ 25,000.00
F. Electricity Costs	\$ 5,000	\$ 5,000.00
<b>TOTAL PROJECT ANNUAL COST</b>	<b>\$ 252,226</b>	<b>\$ 257,522.94</b>
Less carryover from prior year	\$ (14,035)	\$ -
<b>TOTAL AMOUNT TO BE ASSESSED</b>	<b>238,191</b>	<b>\$ 257,522.94</b>
 G. Reserve Pending Annual Collection	 65,000	 65,000

**LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT**  
**LMD 95-1**  
**2005-2006 FISCAL YEAR**

**PART C- ASSESSMENT ROLL**

<b>Assessment Diagram Number</b>	<b>Assessor's Parcel Number</b>	<b>2005-2006 Assessment</b>
1-1A-1	022-54-016	\$1,007.66
1-1A-2	022-54-017	\$3,127.58
1-1A-3	022-54-018	\$2,195.96
1-1A-4	022-54-019	\$180.62
1-1B	022-54-008	\$741.50
1-2	022-54-002	\$551.36
1-3	022-54-003	\$969.64
1-4A	022-54-009	\$8,051.84
1-4B	022-54-012	\$2,870.90
1-4C	022-54-013	\$218.64
1-4D	022-54-015	\$1,692.12
1-4E	022-54-014	\$608.40
1-4F	022-54-011	\$1,245.32
1-4G	022-54-010	\$979.14
2-1	022-53-001	\$712.98
2-2	022-53-002	\$1,169.28
2-3	022-53-003	\$722.48
2-4	022-53-004	\$570.38
2-5	022-53-005	\$703.46
2-6	022-53-006	\$1,131.26
2-7	022-53-007	\$20,837.84
3	022-29-016	\$13,841.20
4-1A-1	022-56-005	\$1,929.78
4-1A-2	022-56-006	\$1,958.30
4-1A-3	022-56-007	\$1,967.80
4-1A-4	022-56-008	\$32,815.80
4-1A-5	022-56-009	\$23,119.36
4-1B	022-29-037	\$0.00
5-1A-1	022-29-034	\$34,850.16
5-2A-1	022-29-035	\$29,602.66
5-3A	022-29-036	\$33,281.60
5-3B-1	022-30-037	\$8,736.30
5-3B-2	022-30-038	\$9,506.32
5-3B-3	022-30-039	\$4,962.30
5-3C (Storm Pump Station)	022-30-035	\$89.20
5-5A	022-30-033	\$8,878.90
5-6 (Open Space)	022-30-034	\$0.00
5-7 (Sewer Pump Station)	022-30-005	\$1,694.90
<b>TOTAL</b>		<b>\$257,522.94</b>

**PART D**  
**METHOD OF ASSESSMENT**  
**LANDSCAPING AND LIGHTING MAINTENANCE**  
**ASSESSMENT DISTRICT NO. 95-1**

The special benefits that accrue to the properties in the Maintenance Assessment District are limited to those properties that abut an improved public street or which have been obligated by issuance of bonds for necessary public improvements (the "Improved Parcels"). Other properties in the Maintenance Assessment District receive only a general benefit from the work of improvements, and there is also some general benefit that accrues to the community as a whole. The total amount of general benefit from the improvements is determined to be less than 10% of the total cost thereof, and the annual cost attributable to general benefit is therefore less on a present value basis than the amount of the contribution to total costs made by the City of Milpitas in fiscal year 2001-2002. Accordingly, no property within the Maintenance Assessment District is assessed more than the proportionate special benefit conferred on that property.

The Improved Parcels receive a special benefit proportionate to their net acreage and thus they are assessed on the basis of total net acreage for all costs associated with the maintenance and installation of the Maintenance Assessment District improvements including incidentals, Engineer's Report, printing and advertising of assessment notices, County collection fees, legal fees and appurtenances with the following exceptions:

1. Parcel 5-7 (Sewer Main Pump Station) and Parcel 5-3C (Storm Pump Station) do not benefit from landscaping as much as other Improved Parcels because they are dedicated to municipal sanitary sewer and storm facilities use and will not be otherwise developed. Therefore, they are assigned a special benefit equal to 50% of the benefit accruing to other Improved Parcels.
2. Parcel 4-1B and parcel 5-6 are dedicated to open space and therefore, they do not receive any special benefit from the improvements, but rather they provide a special benefit.

The amount of assessment levied on each Improved Parcel in the maintenance Assessment District shall be in a range from \$.012 per net square foot to .03 per net square foot, with the exact amount to be levied in any given year to be determined by the budget for that year. \$.012 to \$.03 per net square foot are the amounts of the range of assessments for fiscal year 2001-2002, and these amounts shall be increased in subsequent years by the percentage increase from April 1<sup>st</sup> of the prior year to April 1<sup>st</sup> of the current year in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Indexes, Pacific Cities and U.S. City Average, San Francisco-Oakland-San Jose.

The assessment per net square foot in fiscal year 2000-2001 was \$0.017. The range of assessments being levied in fiscal year 2001-2002, which could result in the Maximum Assessment shown below (which do not include CPI adjustment) represents an increase in the assessments.



# **RANGE OF ASSESSMENT**

Assessment Diagram Number	Assessor's Parcel Number	Assessment Range	
		2001-2002 Assessment	Maximum * Assessment
1-1A-1	022-54-016	\$586.62	\$1,400.84
1-1A-2	022-54-017	\$1,808.28	\$4,318.16
1-1A-3	022-54-018	\$1,268.99	\$3,030.33
1-1A-4	022-54-019	\$107.31	\$256.25
1-1B	022-54-008	\$430.33	\$1,027.63
1-2	022-54-002	\$319.72	\$763.50
1-3	022-54-003	\$561.86	\$1,341.70
1-4A	022-54-009	\$4,660.49	\$11,129.17
1-4B	022-54-012	\$1,660.80	\$3,965.98
1-4C	022-54-013	\$128.22	\$306.19
1-4D	022-54-015	\$980.08	\$2,340.42
1-4E	022-54-014	\$350.54	\$837.09
1-4F	022-54-011	\$564.06	\$1,714.91
1-4G	022-54-010	\$718.14	\$1,346.96
2-1	022-53-001	\$414.38	\$989.52
2-2	022-53-002	\$679.07	\$1,621.61
2-3	022-53-003	\$416.58	\$994.78
2-4	022-53-004	\$331.28	\$791.09
2-5	022-53-005	\$408.32	\$975.07
2-6	022-53-006	\$653.76	\$1,561.16
2-7	022-53-007	\$12,060.91	\$28,801.29
3	022-29-016	\$8,011.81	\$19,132.09
4-1A	022-56-004	\$35,769.46	\$85,416.97
4-1B (Open Space)	022-29-033	\$0.00	\$0.00
5-1A-1	022-29-031	\$23,112.57	\$55,192.50
5-2A-1	022-29-032	\$14,197.72	\$33,903.97
5-3A	022-29-033	\$19,265.98	\$46,006.89
5-3B	022-30-032	\$13,432.81	\$32,077.36
5-3C(Storm Pump Station)	022-30-035	\$51.64	\$123.31
5-5A	022-30-033	\$5,139.80	\$12,273.76
5-6 (Open Space)	022-30-034	\$0.00	\$0.00
5-7 (Sewer Pump Station)	022-30-005	\$981.13	\$2,342.94
<b>TOTAL</b>		<b>\$149,073</b>	<b>\$355,983</b>

\* Does not include CPI adjustment

Any property owner who feels that the amount of their assessment is in error as a result of incorrect information being used to apply the foregoing method of spread, may file an appeal with the Finance Director of the City. Any such appeal is limited to correction of an assessment during the current or, if before July 1, the upcoming fiscal year. Upon the filing of any such appeal, the Finance Director shall promptly review the information provided by the property owner and if he/she finds that the assessment should be modified, he/she shall have the authority to make the appropriate changes in the assessment roll. If any such changes are provided after the assessment roll has been filed with the County for collection, the Finance Director is authorized to refund to the property owner the amount of any approved reduction.

**LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT**  
**LMD 95-1**  
**2005-2006 FISCAL YEAR**

**PART E- PROPERTY OWNERSHIP LIST**

<b>ASSESSMENT DIAGRAM NUMBER</b>	<b>ASSESSOR'S PARCEL NUMBER</b>	<b>OWNER</b>	<b>NET ASSESSABLE AREA (acres)</b>
1-1A-1	022-54-016	<b>Houret Robert J Trustee &amp; ET AL</b> 5570 Sanchez Dr San Jose, CA 95123	1.06
1-1A-2	022-54-017	<b>Milpitas Garden Hotel Co. LLC</b> P.O.Box 4900 Scottsdale, AZ 85261-4900	3.29
1-1A-3	022-54-018	<b>Milpitas Studio Hotel Co. LLC</b> P.O.Box 4900 Scottsdale, AZ 85261-4900	2.31
1-1A-4	022-54-019	<b>In-N-Out Burgers</b> 13502 Hamburger Ln Baldwin Park, CA 91706	0.19
1-1B	022-54-008	<b>In-N-Out Burgers</b> 4199 Campus Dr Unit 9th FL Irvine, CA 92612-2698	0.78
1-2	022-54-002	<b>First Creekside Assoc.</b> P. O. BOX 835 Grafton, WI 53024	0.58
1-3	022-54-003	<b>ASK Family LTD Part</b> <b>A Texas LTD Part</b> 999 W TAYLOR ST STE D SAN JOSE, CA 95126	1.02
1-4A	022-54-009	<b>McCARTHY SHOPPING CTR LP</b> 100 SMITH RANCH RD STE 325 SAN RAFAEL, CA 94903	8.47
1-4B	022-54-012	<b>F &amp; M Sorci Land Company, Inc.</b>	3.02
1-4C	022-54-013	333 W El Camino Real Ste 240 Sunnyvale, CA 94087-1969	0.23
1-4D	022-54-015	<b>Pacific Meritage, LLC</b> P.O.Box 1547 San Ramon, CA 94583-6547	1.78

1-4E	022-54-014	<b>J N C International Entprs LLC</b> 38464 Botany Green Fremont, CA 94536	0.64
1-4F	022-54-011	<b>First Creekside Assoc.</b> P. O. BOX 835 Grafton, WI 94536	1.31
1-4G	022-54-010	<b>KMV PROPERTIES LLC</b> 2 Carnoustie Moraga, CA 94556	1.03
2-1	022-53-001	<b>HAM JAYNE Y</b> 11713 Dorothy Anne Way Cupertino, CA 95014	0.75
2-2	022-53-002	<b>CB McCarthy Ranch</b>	1.23
2-3	022-53-003	<b>Marketplace Inc.</b> P.O. Box 4900 Scottsdale, AZ 85261-4900	0.76
2-4	022-53-004	<b>HSC Associates LP</b> 2780 Alum Rock Ave San Jose, CA 95127-2801	0.60
2-5	022-53-005	<b>HSC Associates LP</b> 690 Gibraltar Dr Milpitas, CA 95035-6317	0.74
2-6	022-53-006	<b>CB McCarthy Ranch</b>	1.19
2-7	022-53-007	<b>Marketplace Inc.</b> P.O. Box 4900 Scottsdale, AZ 85261-4900	21.92
3	022-29-016	<b>Walmart Stores, Inc.</b> 1301 SE 10th St Bentonville, AR 72716-0555	14.56
4-1A-1	022-56-005	<b>First Security Bank</b>	2.03
4-1A-2	022-56-006	370 Ellis St	2.06
4-1A-3	022-56-007	Mountain View, CA 94043	2.07
4-1A-4	022-56-008		34.52
4-1A-5	022-56-009		24.32
4-1B	022-29-037	<b>City of San Jose</b>	6
5-1A-1	022-29-034	<b>McCarthy Center Partners LLC</b>	36.66
5-2A-1	022-29-035	550 Newport Center Dr Unit 6 Newport Beach, CA 92660	31.14

5-3A	022-29-036	<b>MCCARTHY RANCH LP</b>	35.01
5-3B-1	022-30-037	P.O. Box 361256 Milpitas, CA 95036	9.19
5-3B-2	022-30-038	<b>New Trend Tech Inc.</b> 891 Fairview Wy Milpitas, CA 95035	10
5-3B-3	022-30-039	<b>MCCARTHY RANCH LP</b> P.O. Box 361256 Milpitas, CA 95036	5.22
5-3C	022-30-035	<b>City of Milpitas</b> 455 E. Calaveras Blvd. Milpitas, CA 95035	0.19
5-5A	022-30-033	<b>MCCARTHY RANCH LP</b> P.O. Box 361256 Milpitas, CA 95036	9.34
5-6	022-30-041	<b>City of Milpitas</b> 455 E. Calaveras Blvd. Milpitas, CA 95035	1.43
5-7	022-30-005	<b>City of Milpitas</b> 455 E. Calaveras Blvd. Milpitas, CA 95035	9.16
<b>TOTAL</b>			<b>285.8</b>

**ENGINEER'S REPORT  
LANDSCAPING AND LIGHTING  
MAINTENANCE ASSESSMENT DISTRICT NO. 95-1  
FISCAL YEAR 2005-2006**

**CERTIFICATES**

I HEREBY CERTIFY that the enclosed Engineer's Report, together with Assessment Diagram thereto attached, was filed with me on the 10th day of June, 2005.

Mary Lavelle, City Clerk  
City of Milpitas  
Santa Clara County, California  
By: \_\_\_\_\_

I have prepared this Engineer's Report and do hereby certify that the amounts set forth in the Engineer's Estimate on Part B hereof entitled "assessment", and the individual amounts of the Assessment Roll on Part C herein, have been computed by me in accordance with the order of the City Council of the City of Milpitas, adopted on the 17th day of May, 2005.

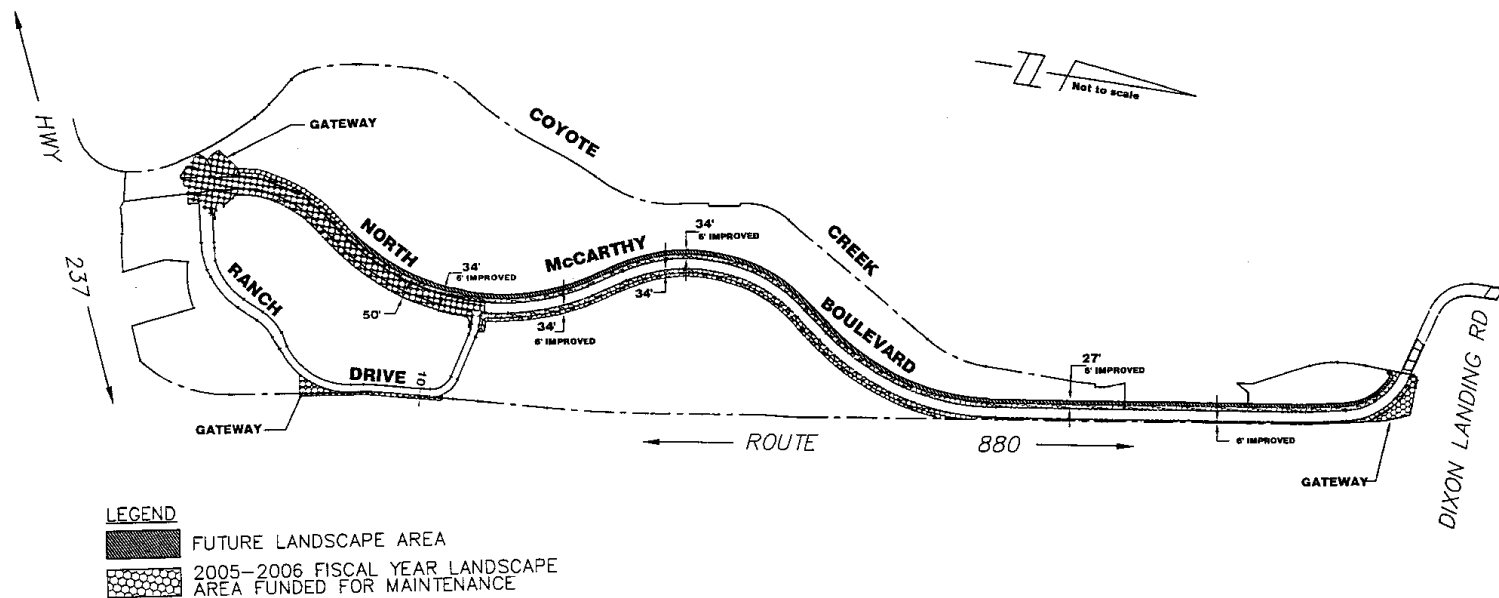
Greg Armendariz, Engineer of Work  
By: \_\_\_\_\_

I HEREBY CERTIFY that the enclosed Engineer's Report, together with Assessment and Assessment Diagram thereto attached, were approved and confirmed by the City Council of the City of Milpitas, Santa Clara County, California, on the 21st day of June, 2005, by Resolution No. \_\_\_\_\_.

Mary Lavelle, City Clerk  
City of Milpitas  
Santa Clara County, California  
By: \_\_\_\_\_

I HEREBY CERTIFY that the Assessment and Assessment Diagram, was filed with the County Auditor of the County of Santa Clara, on the 28th day of June, 2005.

Mary Lavelle, City Clerk  
City of Milpitas  
Santa Clara County, California  
By: \_\_\_\_\_



## McCarthy Ranch

PART G -- VICINITY MAP  
 LANDSCAPING & LIGHTING MAINTENANCE  
 ASSESSMENT DISTRICT NO. 95-1  
 CITY OF MILPITAS  
 COUNTY OF SANTA CLARA - STATE OF CALIFORNIA

An assessment was levied by the City Council of the City of Milpitas, County of Santa Clara, State of California on the lots, pieces and parcels of land shown on this assessment diagram. Said assessment was levied on the 21st day of June 2005; said assessment diagram and the assessment roll were recorded in the Office of the Superintendent of Streets of said City on the 21st day of June 2005. Reference is made to the assessment roll recorded in the Office of the Superintendent of Streets for the exact amount of each assessment levied against each parcel of land shown on this assessment diagram.

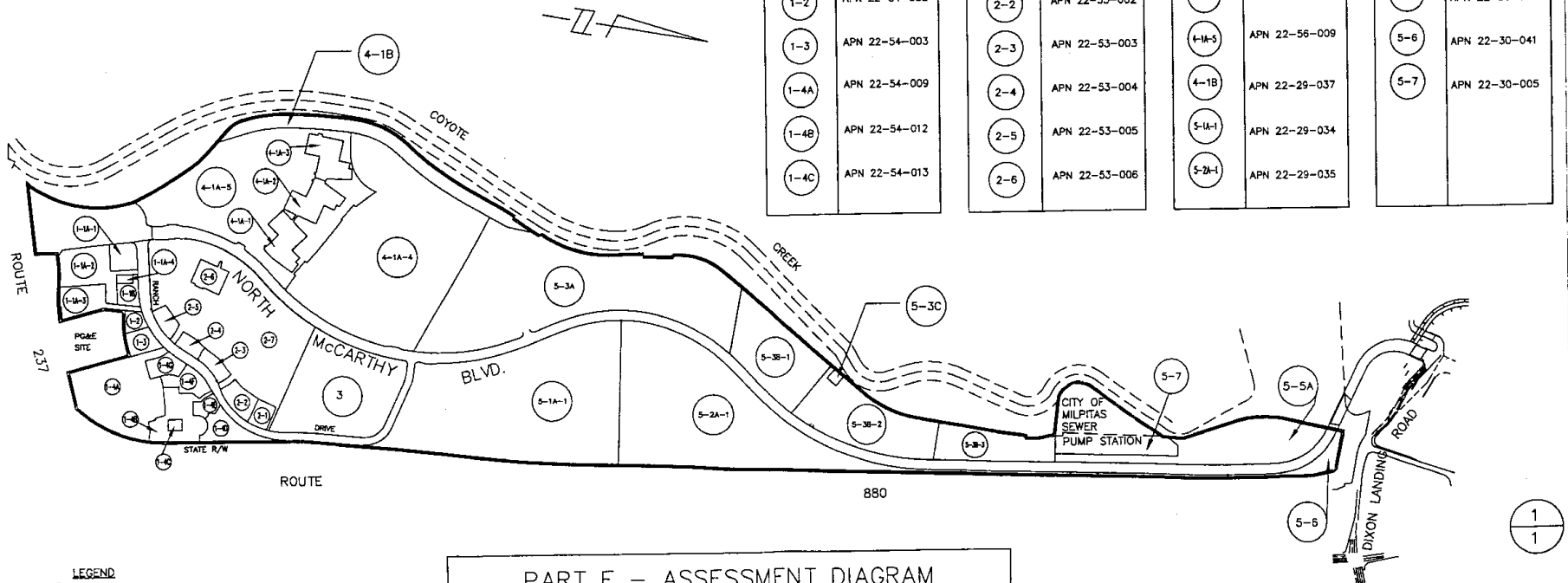
City Clerk of the City of Milpitas

Filed in the Office of the City Clerk of the City of Milpitas, County of Santa Clara, State of California this 10th day of June 2005.

City Clerk of the City of Milpitas

Recorded in the Office of the Superintendent of Streets of the City of Milpitas, County of Santa Clara, State of California, this 21st day of June 2005.

Superintendent of Streets  
City of Milpitas



LEGEND  
 6 ASSESSMENT NO.  
 — BOUNDARY DISTRICT  
 — ASSESSMENT LIMIT

PART F - ASSESSMENT DIAGRAM  
 LANDSCAPING & LIGHTING & MAINTENANCE  
 ASSESSMENT DISTRICT NO. 95-1  
 OF  
 CITY OF MILPITAS  
 COUNTY OF SANTA CLARA - STATE OF CALIFORNIA

Note:  
 Reference is hereby made to the maps and deeds of record in the Office of the Assessor of the County of Santa Clara for a detailed description of the lines and dimensions of any parcels shown hereon. Those maps shall govern for all details concerning the lines and dimension of such parcels. Each parcel is identified in said maps by its distinctive Assessor's Parcel Number.

ASSESSMENT NO.	ASSESSOR'S PARCEL NO.	ASSESSMENT NO.	ASSESSOR'S PARCEL NO.	ASSESSMENT NO.	ASSESSOR'S PARCEL NO.	ASSESSMENT NO.	ASSESSOR'S PARCEL NO.
1-1A-1	APN 22-54-016	1-4D	APN 22-54-015	2-7	APN 22-53-007	5-3A	APN 22-29-036
1-1A-2	APN 22-54-017	1-4E	APN 22-54-014	3	APN 22-29-016	5-3B-1	APN 22-30-037
1-1A-3	APN 22-54-018	1-4F	APN 22-54-011	4-1A-1	APN 22-56-005	5-3B-2	APN 22-30-038
1-1A-4	APN 22-54-019	1-4G	APN 22-54-010	4-1A-2	APN 22-56-006	5-3B-3	APN 22-30-039
1-1B	APN 22-54-008	2-1	APN 22-53-001	4-1A-3	APN 22-56-007	5-3C	APN 22-30-035
1-2	APN 22-54-002	2-2	APN 22-53-002	4-1A-4	APN 22-56-008	5-5A	APN 22-30-033
1-3	APN 22-54-003	2-3	APN 22-53-003	4-1A-5	APN 22-56-009	5-6	APN 22-30-041
1-4A	APN 22-54-009	2-4	APN 22-53-004	4-1B	APN 22-29-037	5-7	APN 22-30-005
1-4B	APN 22-54-012	2-5	APN 22-53-005	5-1A-1	APN 22-29-034		
1-4C	APN 22-54-013	2-6	APN 22-53-006	5-2A-1	APN 22-29-035		



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING ANNUAL  
ENGINEER'S REPORT, CONFIRMING DIAGRAM AND ASSESSMENT AND ORDERING LEVY OF  
ASSESSMENT FOR FISCAL YEAR 2005-2006 FOR LANDSCAPING AND LIGHTING  
MAINTENANCE ASSESSMENT DISTRICT NO. 95-1**

**RESOLVED**, by the City Council (the "Council") of the City of Milpitas (the "City"), County of Santa Clara, State California, that

WHEREAS, by its Resolution No.7528, A Resolution Directing Preparation of Annual Report for the City of Milpitas Maintenance Assessment District No. 95-1 (the "Maintenance District"), this Council ordered the Engineer to make and file a report in writing in accordance with and pursuant to the Landscaping and Lighting Act of 1972;

WHEREAS, the report was duly made and filed with the City Clerk and duly considered by this Council and found to be sufficient in every particular, whereupon it was determined that the report should stand as the Annual Engineer's Report for all subsequent proceedings under and pursuant to the aforesaid resolution, and that June 21, 2005 at the hour of 7:00 o'clock p.m. in the Milpitas City Council Chambers, 455 East E. Calaveras Boulevard, Milpitas, California, were appointed as the time and place for a hearing by this Council on the question of the levy of the proposed assessment, notice of which hearing was given as required by law; and

WHEREAS, at the appointed time and place the hearing was duly and regularly held, and all persons interested desiring to be heard were given an opportunity to be heard, and all matters and things pertaining to the levy were fully heard and considered by this Council, and all oral statements and all written protests or communications were duly heard, considered and overruled, and this Council thereby acquired jurisdiction to order the levy and the confirmation of the diagram and assessment prepared by and made a part of the Engineer's Report to pay the costs and expenses thereof;

THE CITY COUNCIL OF THE CITY OF MILPITAS RESOLVES as follows:

1. The public interest, convenience and necessity require that the levy be made.
2. The Maintenance District benefited by the improvements and assessed to pay the costs and expenses thereof, and the exterior boundaries thereof, are as shown by a map thereof filed in the office of the City Clerk, which map is made a part hereof by reference thereto.
3. The Engineer's Report as a whole and each part thereof, to wit:
  - (a) the Engineer's estimate of the itemized and total costs and expenses of maintaining the improvements and of the incidental expenses in connection therewith;
  - (b) the diagram showing the assessment district, plans and specifications for the improvements to be maintained and the boundaries and dimensions of the respective lots and parcels of land within the Maintenance District; and

(c) the assessment of the total amount of the cost and expenses of the proposed maintenance of the improvements upon the several lots and parcels of land in the Maintenance District in proportion to the estimated benefits to be received by such lots and parcels, respectively, from the maintenance, and of the expenses incidental thereto;

are finally approved and confirmed.

4. Final adoption and approval of the Annual Engineer's Report as a whole, and of the plans and specifications, estimate of the costs and expenses, the diagram and the assessment, as contained in the report, as herein above determined and ordered, is intended to and shall refer and apply to the report, or any portion thereof as amended, modified, or revised or corrected by, or pursuant to and in accordance with, any resolution or order, if any, heretofore duly adopted or made by this Council.

5. The assessment to pay the costs and expenses of the maintenance of the improvements for fiscal year 2005-2006 is hereby levied. For further particulars pursuant to the provisions of the Landscaping and Lighting Act of 1972, reference is hereby made to the Resolution Directing Preparation of Annual Engineer's Report.

6. Based on the oral and documentary evidence, including the Annual Engineer's Report, offered and received at the hearing, this Council expressly finds and determines (a) that each of the several lots and parcels of land will be specially benefited by the maintenance of the improvements at least in the amount, if not more than the amount, of the assessment apportioned against the lots and parcels of land, respectively, and (b) that there is substantial evidence to support, and the weight of the evidence preponderates in favor of, the aforesaid finding and determination as to special benefits.

7. Immediately upon the adoption of this resolution, but in no event later than the third Monday in August following such adoption, the City Clerk shall file a certified copy of the diagram and assessment and a certified copy of this resolution with the Auditor of the County of Santa Clara. Upon such filing, the County Auditor shall enter on the County assessment roll opposite each lot or parcel of land the amount of assessment thereupon as shown in the assessment. The assessments shall be collected at the same time and in the same manner as County taxes are collected, and all laws providing for the collection and enforcement of County taxes shall apply to the collection and enforcement of the assessments. After collection by the County, the net amount of the assessments, after deduction of any compensation due the County for collection, shall be paid to the Director of Financial Services/Treasurer of the City.

8. Upon receipt of moneys representing assessments collected by the County, the Director of Financial Services/Treasurer shall deposit the moneys in the City Treasury to the credit of the improvement fund previously established under the distinctive designation of the Maintenance District. Moneys in the improvement fund shall be expended only for the maintenance, servicing, construction or installation of the improvements.

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PASSED AND ADOPTED by the City Council of the City of Milpitas this 21st day of June 2005, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

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Mary Lavelle, City Clerk

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Jose S. Esteves, Mayor

APPROVED AS TO FORM:

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Steven T. Mattas, City Attorney